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Implementation of the International Covenant on Economic, Social and Cultural Rights

Second periodic report submitted by States parties under
articles 16 and 17 of the Covenant

Kuwait*

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Introduction

1. The Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (1966) are the cornerstones of the International Bill of Human Rights, which countries of the civilized world have undertaken to uphold and to consistently support with a view to strengthening international confidence in it and to protecting all the human rights that people need to be afforded in order to enjoy a life that is completely free and safe from any act of abuse. To be able to have such a life, certain essential requirements must be met; a person must have access to work, food, housing, health care, education and culture.

2. The International Covenant on Economic, Social and Cultural Rights is one of the key pillars of the human rights system. It was adopted in December 1966 by General Assembly resolution 2200A (XXI) and entered into force nearly 10 years later, acquiring the force of law in the States parties in 1976.

3. When the international community formally recognized a range of economic, social and cultural rights it did so with full awareness of their importance for establishing "social equity" in this world, in conjunction with the rights and fundamental freedoms already enshrined in the International Covenant on Civil and Political Rights. The purposes of the International Covenant on Economic, Social and Cultural Rights focus on:

- (a) Just conditions of work;
- (b) Access to social security;
- (c) A decent standard of living;
- (d) The highest attainable standard of physical and mental health;
- (e) The right to a suitable education and to enjoyment of the benefits of cultural freedom and scientific progress.

4. Kuwait remains committed to supporting the full enjoyment of human rights in the political, legislative, economic and social domains and to joining international efforts to promote and disseminate ideologies that foster respect for human rights principles. The State acceded to the International Covenant on Economic, Social and Cultural Rights in 1996 and the Covenant entered into force in Kuwait pursuant to Act No. 11 of 1996. When Kuwait deposited the instrument of ratification with the Secretariat of the United Nations, it gave a pledge to comply fully with all its obligations under the Covenant and to take the measures expected of it as a State party. With ratification, the State, meaning the Amir, the Government and the people, made a firm commitment to upholding all fundamental human rights principles, regardless of the religion, origin or ethnicity of the rights holder.

5. The country's political leadership has not confined its efforts in the human rights domain to the domestic arena. It has made intensive endeavours to provide all members of the international community (States and organizations) with financial and political assistance in the hope that all members of the international community will be able to enjoy a decent life.

6. The State has signed several other international human rights treaties. In this report, various aspects of the International Covenant on Economic, Social and Cultural Rights will be addressed. The report is divided into two parts. Part one is a core document, section A of which provides general information about Kuwait, section B information on the general framework for the protection and promotion of human rights, and section C information on non-discrimination, equality and access to legal remedies. Part two deals specifically with

legislative, legal and administrative measures taken by the State in observance of the articles under parts I, II and III of the Covenant.

I. Core document

A. General information about Kuwait

Demographic, economic, social and cultural features of the State

7. Kuwait is in the far north-west of the Arabian Gulf, between 28.45° and 30.05° N and 46.30° and 48.30° E. The official language is Arabic and the State religion is Islam. Kuwait has an area of 17,818 km² and a population of over 3 million. Kuwait is a member of the Cooperation Council for the Arab States of the Gulf, the Organization of Islamic Cooperation and the United Nations. It is one of the world's leading oil producers and exporters and is a founding member of the Organization of Petroleum Exporting Countries (OPEC).

8. As it is in a desert region, the country has a continental climate, with long, hot, dry summers and short, warm winters with occasional rainfall.

9. Kuwait is a developed country, as reflected in its social indicators: in 2008, 99 per cent of adults had received an education, the enrolment ratio in primary and intermediate education was 100 per cent and the average annual income per capita was US\$ 43,100.

10. Kuwait provides free health care at all stages, as this is defined as a human right in articles 10, 11 and 15 of the Kuwaiti Constitution. There are 87 primary health centres, 6 general hospitals and 3 specialist health centres. Health services are provided on an equitable and equal basis to all individuals (Kuwaitis, foreign residents, older persons, children, persons with disabilities, women, young persons and workers).

11. The State has done a great deal to give effect to the right to education. Since 1965, education has been provided free of charge at all stages from kindergarten to university, and education is compulsory in the primary and intermediate stages. In 2008, spending on education accounted for 14 per cent of the State budget. Kuwait has managed to reduce the illiteracy rate (to 3.5 per cent in 2009) and provides comprehensive educational services for persons with disabilities. In some cases, persons with disabilities are integrated into ordinary schools and in others they attend special schools.

Constitutional, political and legal structure of the State

12. Kuwait is an independent, fully sovereign, Arab State. Its religion is Islam, its official language is Arabic, and its system of government is democratic. As stated in an explanatory note to the Constitution, the system combines a parliamentary system with a presidential system. The fact that Kuwait applies the principle of the separation of, and cooperation among, the State powers is evidence that its form of government is democratic.

13. Divided into five sections, one entire chapter of the Kuwaiti Constitution is devoted to the subject of the State powers. The first section states that legislative power is vested in the Amir and the National Assembly under the Constitution. Executive power is vested in the Amir, the Cabinet and Government ministers. The courts exercise judicial power on behalf of the Amir and within the parameters laid down in the Constitution.

14. The second section of this chapter defines the powers of the Head of State as follows:

(a) He exercises his powers through his ministers and appoints, and may dismiss, the Prime Minister;

(b) He is the Commander-in-Chief of the Armed Forces and appoints and dismisses officers in accordance with the rules established by law;

(c) He issues regulations on the implementation of laws and on the organization of public services and the State administration;

(d) He appoints civil and military officials and political representatives to other States.

15. In addition to the foregoing, the Amir has other powers, namely:

- Legislative power: According to article 79 of the Constitution, legislative power is vested in the Amir and in the National Assembly. The National Assembly has 50 members, who are elected by direct universal suffrage in a secret ballot for a term of four years. The National Assembly is empowered by the Constitution to enact legislation. The third section of this chapter of the Constitution contains provisions specifically on legislative power.
- Executive power: Executive power is vested in the Amir and in the Cabinet. The executive oversees the work of State departments and agencies, formulates general Government policy, follows up on policy implementation and monitors the work done by Government departments. Ministers deal with issues relevant to the work of their ministry and implement the general policy of the Government. They also draw up ministerial plans and see to it that they are put into effect.
- Judicial power: The courts exercise judicial power on behalf of the Amir. The principle of the independence of the judiciary is enshrined in the Constitution and in law; the honour of the judiciary and the integrity and impartiality of judges are considered to be the foundations of State authority and a guarantee of rights and freedoms. Judges dispense justice without interference from any quarter. The law recognizes the independence of the judiciary, provides safeguards for judges and regulates related matters. The Constitution contains an entire section on judicial power.

B. General framework for the protection and promotion of human rights

16. At the outset, it should be recalled that Kuwait has acceded to a number of international human rights instruments, including the:

- (a) Slavery Convention of 1926;
- (b) Protocol amending the Slavery Convention of 1926;
- (c) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;
- (d) International Convention on the Elimination of all Forms of Racial Discrimination;
- (e) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;
- (f) International Convention on the Suppression and Punishment of the Crime of Apartheid;
- (g) Convention on the Rights of the Child;

(h) Convention on the Elimination of All Forms of Discrimination against Women;

(i) Convention on the Prevention and Punishment of the Crime of Genocide;

(j) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity;

(k) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(l) International Covenant on Civil and Political Rights;

(m) International Covenant on Economic, Social and Cultural Rights;

(n) International Convention against Apartheid in Sports;

(o) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

(p) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

17. In addition, Kuwait has taken the following steps:

- The State has adopted the constitutional and legal measures required for accession to the Convention on the Rights of Persons with Disabilities
- At the regional level, Kuwait has signed the Arab Charter on Human Rights, which is currently before the National Assembly

18. The Kuwaiti Constitution provides a framework that offers political and legal protection for the application of human rights norms in Kuwait generally. A number of laws on various aspects of human affairs were enacted before the Constitution was promulgated so as to provide justice guarantees in Kuwait. These laws include in particular the Criminal Code and the Code of Criminal Procedures, both of which date from 1960. The Constitution itself clearly promotes respect for human rights with a view to a better future in which citizens enjoy greater prosperity, the nation has a good standing internationally and the Arab tradition of defending the dignity of the person is preserved.

19. Given their importance, the human rights principles which the international community is committed to promoting under the relevant international instruments have been included in most of the provisions of the Constitution. The Constitutional Court was established pursuant to Act No. 14 of 1973 to safeguard these rights and freedoms and to ensure their effective observance. Kuwait has enacted legislation to foster the enjoyment of these rights.

Human rights principles set forth in chapters II and III of the Constitution

20. In the Kuwaiti Constitution, rights and freedoms are treated as a matter of the utmost importance. Most articles of the Convention, including those listed below, refer explicitly to human rights.

- The people are the source of all powers; sovereignty resides in the nation (art. 6)
- Justice, equality and liberty (art. 7)
- Protection of the family, motherhood, childhood and youth (arts. 9 and 10)
- Care and social security for all citizens in old age and the event of illness or inability to work (art. 11)
- Free education, as guaranteed and provided by the State (art. 13)

- Promotion of science and literature and encouragement of scientific research (art. 14)
- The right to health care (art. 15)
- The right to own property, and the inviolability and protection of public property (arts. 16 and 17)
- Protection of private property: no one may have his or her property expropriated except in the public interest, under the conditions specified by law and in exchange for fair compensation (art. 18)
- The right to have access to public service (art. 26)

Human rights principles set forth in chapter III of the Constitution

21. This chapter deals with the subject of public rights and duties. It includes many of the principles set forth in international human rights instruments, namely:

- Citizenship may be withdrawn or withheld only under the conditions established by law (art. 27)
- No Kuwaiti may be expelled from his or her country (art. 28)
- Equality and protection from discrimination on the grounds of race, origin, language or religion: all citizens have equal public rights and duties under the law (art. 29)
- Freedoms and rights, such as personal freedom (art. 30); freedom of belief (art. 35); freedom of opinion and scientific research (art. 36); freedom of the press, printing and publishing (art. 37); freedom of private life and residence (art. 38); freedom to communicate by post, telegraph and telephone; freedom to form associations and trade unions (art. 43); and the right to freedom of assembly (art. 44)
- No person may be arrested, imprisoned, tortured or compelled to reside in a given location and no restrictions may be imposed on a person's freedom of residence or movement
- Torture and degrading punishment are prohibited (art. 31)
- No crime or penalty will be recognized as such except as provided for by law (art. 32)
- Accused persons shall be presumed innocent until proved guilty in a lawful trial in which the right to a defence is assured (art. 34)
- The right to free education at all levels: primary education is compulsory (art. 40)
- The right to work (art. 41)
- Persons granted political asylum may not be extradited (art. 46)
- Persons with low incomes are exempt from paying taxes (art. 48)

Principles set forth in chapter IV of the Constitution

22. Sections 1 to 5 of this chapter of the Constitution list the principles on which the system of government in Kuwait is founded and elucidate the functions and features of the three powers of State. Article 50 of the Constitution refers to the separation of powers, while section 5 articulates some of the key principles that inform the work of the judiciary. The section states that the impartiality of the judiciary is the basis of governance and a guarantee of rights and duties. It affirms:

- The principle of the independence of the judiciary and the immunity of judges (art. 163)
- The principle of the right of legal recourse (art. 164)

23. The Constitutional Court was established by Act No. 14 of 1973. It has sole competence to interpret the Constitution and to adjudicate in disputes over the constitutionality of laws, regulations and other statutory instruments. Rulings of the Constitutional Court are binding upon all persons and upon all other courts.

Education

24. Kuwait has done a great deal to deliver the right to education, as explained below.

Education laws

25. As the State evolved, various laws and decrees on education were enacted, prior to the promulgation of the present Constitution. The details are provided below.

(a) A special report on education (the Matti Aqrabi report) was published in 1955. It established some general principles on human rights as they relate inter alia to:

- (i) The eradication of illiteracy;
- (ii) The promotion of democracy;
- (iii) The establishment of universal, compulsory education;
- (iv) Access to opportunities to complete education.

As the above list makes clear, the right to education is bound up with equality of opportunity and justice, and the right to learn is inextricably linked to the right to education. The importance of basic education is also recognized.

(b) The Compulsory Education Act was adopted in 1965. It provided as follows:

- (i) Education is compulsory and shall be provided free of charge to all males and females.

Under the Act, compulsory education was supposed to last for eight years. With the overhaul of the educational system in 2005, the duration of compulsory education was increased to nine years.

(c) The establishment of Kuwait University in 1966 completed the efforts made to develop the Kuwaiti education system;

(d) In 1979, the Amir issued a decree defining the terms of reference of the Ministry of Education;

(e) In 1981, the Eradication of Illiteracy Act was issued to further efforts to ensure the right to education for all;

(f) In 1987, a special law was enacted, supplementing existing legislation on State education. The law stated that all Kuwaitis are entitled to a free education provided by the State.

National policies on human rights education

26. Education and human rights are closely interlinked, since education is recognized not just as being a right in itself but also a vehicle for teaching human rights. In keeping with its policies on human rights education, Kuwait has played a prominent role in the activities outlined below.

Arab Plan for Human Rights Education, 2009–2014

27. Kuwait led and participated actively in the efforts to elaborate the Arab Plan for Human Rights Education under the auspices of the League of Arab States. The Plan was unanimously endorsed at the Arab Summit Conference held in Damascus in 2008. The objectives of the Plan are to:

- (a) Mainstream human rights in all stages of education;
- (b) Provide training courses on human rights education;
- (c) Prepare the ground for the delivery of human rights education;
- (d) Involve communities more fully in the dissemination of a culture of human rights.

28. The Arab Plan for Human Rights Education was drawn up on the basis of some general principles. The key ones are listed below.

- (a) Universality and inclusiveness: all persons must be afforded the same rights without any discrimination among them;
- (b) Comprehensiveness and interrelatedness: human rights form a single, indivisible whole;
- (c) Equality and non-discrimination: human rights are to be enjoyed by all persons without any discrimination based on race, colour, sex, language, religion, political or other opinion, racial, national or social origin, wealth, place of birth, or any other circumstance;
- (d) Participation: all persons and peoples have the right to participate fully and actively in socio-economic development.

Higher Committee for Human Rights

29. The Higher Committee for Human Rights was established by a ministerial decree of 2008 to promote respect for general human rights principles within an organizational framework. The functions of the Committee include:

- (a) Raising awareness of human rights through the media and through seminars, public talks and human rights studies;
- (b) Incorporating fundamental human rights concepts into general and higher education curricula.

Analysis of the current state of human rights education

30. Human rights education is at a stage that is building on previous stages and involves the teaching of general human rights values. The current state of affairs can be analysed as follows.

Curricula

31. When the first steps were taken to organize formal education in Kuwait, the focus was on the essential goal of education, namely, to foster the learner's intellectual, spiritual and skills development. Thus, it could be said that all human values, including human rights values and the principles of peace, democracy, tolerance and so on, are reflected in the curricula, specifically in:

- (a) The goals for education at all stages in Kuwait (general, different stages, behavioural development curricula);

(b) Textbooks, which all include material that deals explicitly or implicitly with human rights values. Human rights concepts and principles feature prominently in the textbooks for Islamic education, Arabic, social sciences and other subjects;

(c) Educational programmes, which take account of experiences and realities on the ground;

(d) Surveys, which are conducted to check whether these concepts are found in curricula and to develop mechanisms to ensure their inclusion.

32. The State has taken specific action to respond to recent changes in domestic and global educational trends and to meet the urgent need for action to strengthen humanitarian values and to promote human rights, democracy, peace and international understanding. In the mid-1990s, the Government set up special committees to discuss a mechanism for designing curricula that focus on human rights and democracy and to prepare the ground for the achievement of that objective.

33. In 2000, a special committee was formed to design curricula on the subjects of the Constitution, human rights and democracy. The work that it did was a key achievement. Drafting committees were subsequently formed to draw up the curricula. In 2006, a new committee of human rights specialists was established, consisting of experts in international law, constitutional law, human rights, political sciences, pedagogical techniques, curriculum design, social sciences, Arabic language and curriculum management.

34. The work of the committee was carried out in the following steps:

(a) A philosophy for education on the Constitution and human rights was elaborated;

(b) A conceptual framework was drawn up in a format that encompassed all the elements of the subject and presented them using a step-by-step approach, whereby each stage served as preparation for the next;

(c) General teaching objectives for the subject were defined;

(d) Specific objectives for each grade were defined;

(e) Study material and related activities were designed;

(f) The content of the study material was divided up as follows:

(i) Grade 10: Principles of democracy, the Constitution and human rights;

(ii) Grade 11: Human rights: understanding the concept, its importance and its features and origins; and a detailed study of specific human rights such as: the right to life, equality and human dignity; the right to freedom of belief, opinion and expression; the right to receive an education and to learn; women's and children's rights; political rights; and the duties of individuals;

(iii) Grade 12: The Constitution and public powers.

35. The Committee addressed a number of challenges, including:

(a) The need to establish a conceptual framework that identifies the distinguishing features of the subject and highlights its specific characteristics appropriately, since the subject touches upon so many intellectual, educational, legal and political issues;

(b) The need to provide targeted education to ensure that students get the most from what they are being taught and develop a sound understanding of both the terminology and the content;

- (c) Preparation of a teaching manual;
- (d) Organization of meetings and education seminars as a way of maintaining contact with those who work in the sector;
- (e) Organization of a training course for teachers of social sciences;
- (f) Organization of a training course for those who teach students about the Constitution and human rights.

Philosophy behind the curriculum on the Constitution and human rights

36. It is very important that students learn about the concepts and meaning of democracy, the content of the Constitution and the principles and purposes of human rights instruments in a context where legal information is presented simply and directly. In this way, when they grow up, they will already be well informed about and have a solid grasp of these matters and will know that differences in the way that States and people interpret democracy and democratic practices cannot be equated with the differences and divisions that can jeopardize national unity.

37. From the foregoing it is clear that the philosophy behind the curriculum on the Constitution and human rights recognizes:

- (a) The importance of the Constitution and its articles on: the relations between individuals and the governing powers; the relations between individuals; the organization of political, economic and social life; and the rights and obligations of persons;

- (b) The principle that human rights are universal and are an integral part of life. Indeed, they are the basis of human existence, happiness and welfare and without them it is not possible to ensure human dignity, justice, equality and the well-being and prosperity of individuals and society as a whole.

38. The philosophy of the curriculum on the Constitution and human rights is imparted (knowledge, values, attitudes, skills and practice) in the following general contexts:

- (a) Knowledge: facts and information about the Constitution and human rights are presented with the aim of providing students with a sound knowledge, awareness and understanding of the importance of the Constitution and human rights;

- (b) Values and attitudes: constitutional and human rights values are presented in a way that encourages learners to view them positively and to grasp their importance for individuals and society;

- (c) Skills and practice: various aspects of the Constitution and human rights are presented in lessons focusing on the development of social skills and academic skills and in practical exercises.

39. The sharia and the provisions of the Constitution, the law and international treaties provide the essential underpinnings of the philosophy on which the curriculum on the Constitution and human rights is based. They shape the objectives and the content of the syllabus.

General goals of the curriculum on the Constitution and human rights

40. In keeping with the philosophy on which it was based, the curriculum was designed to enhance the learner's sense of loyalty to the nation. It offers the learner opportunities for personal intellectual, emotional and social development and the chance to explore how lessons learned can be applied in daily life. The following general objectives are pursued:

- (a) Raise learners' awareness of the importance of democracy, the Constitution and human rights;
- (b) Provide learners with information about democracy, the Constitution and human rights;
- (c) Prepare learners to apply democratic, constitutional and human rights principles in their daily lives;
- (d) Inculcate human values relating to the Constitution and human rights;
- (e) Foster positive attitudes in learners towards democracy, the Constitution and human rights;
- (f) Develop students' sense of allegiance and loyalty to the nation;
- (g) Help students to develop their critical faculties.

41. The curriculum was introduced in 2006, beginning in the tenth grade. It was introduced in the eleventh grade in 2007 and the twelfth grade in 2008.

The teacher

42. The success of any educational project largely depends on the teacher, the person who actually delivers educational programmes and projects and who provides the real link between the classroom and decision makers. As teachers have such an important role, the Ministry of Education has set up the following specialist training courses for them:

- (a) A number of teachers and instructors have been enrolled in special courses and workshops held at home, in the region and abroad on the subjects of human rights, international humanitarian law and democracy;
- (b) Training courses have been held for instructors;
- (c) Teacher training courses have been run under the supervision of instructors;
- (d) Seminars and discussion groups have been held to raise awareness of human rights education and democracy;
- (e) Ongoing media campaigns are run on these concepts and their dissemination.

Education

43. The delivery of education on human rights and democracy is a matter of high priority for the Ministry of Education, as illustrated below:

- (a) All general academic curricula refer implicitly to human rights and democratic principles;
- (b) At intermediate schools, students are taught about the Constitution, the electoral process and the principle of non-violence;
- (c) In secondary schools, students are taught about the Constitution and human rights;
- (d) An annual competition is held on the subject of democracy and the Constitution;
- (e) Various competitions are held in which awards are given for research, reports and photographs that focus on human rights themes;
- (f) Activities are run during the summer and at other times of the year to disseminate these principles;

(g) Students visit organizations and institutions that deal with human rights issues, such as the Human Rights Association, the National Assembly and others;

(h) Seminars are held to raise students' awareness of human rights and democratic principles;

(i) A human rights syllabus with a well-defined set of objectives is taught at Kuwait University.

Teaching methods

44. Although similar methods are used to teach all subjects, education about values, including, of course, human rights values, has certain distinctive features, owing to the difficulty of assessing learning in the classroom; the success of education on values can only be gauged from its impact on students' behaviour.

45. Training courses and other activities are held on the use of various methods and techniques to teach human rights. These methods include, but are not limited, to the following:

- Collaborative learning
- Identification of pathways to values education
- Problem solving
- Brainstorming
- Debating and discussing
- Behaviour modelling

46. Other types of activities include:

- Field visits
- Preparation of research and reports
- Compilation of photographic and documentary information
- Organization of competitions
- Participation in school activities

Human rights education outside schools

47. Human rights are an interrelated and indivisible whole — a bit like the climate — because they are essentially bound up with culture. Thus, one cannot focus solely on schools and ignore the environment that surrounds them. It is for this reason that considerable efforts have been made to disseminate human rights education throughout society as a whole, with the active participation of civil society. Contrary to the perception that education of this kind is only provided in schools, the information and communications media make a major contribution to this endeavour.

48. Kuwait endorsed the Arab Plan for Human Rights Education, part one of which deals with human rights education in schools and part two with human rights education in other institutions. The objectives of the plan are enumerated below.

Training

49. Training is provided to persons directly involved in teaching people about individual and collective rights and in shaping public opinion. These persons include educators, staff

who work in youth organizations, women's clubs, summer camps, centres for young offenders (juveniles) and sports clubs, and all those who work in civil society organizations.

50. Human rights education provided at other social education institutions is designed to achieve the following objectives:

- (a) Provide human rights specialists with training on practical and institutional issues;
- (b) Design and customize educational programmes and tools to meet sectoral needs;
- (c) Promote partnerships and strengthen ties between human-rights training institutes, organizations and centres and media, scientific, cultural and technical institutions, and foster effective communication between all partners.

Awareness-raising

51. This area of activity focuses on various segments of society, including institutions, groups and individuals, particularly those that have never been involved in human rights education and training.

52. Human rights education at other social education institutions is directed towards the achievement of the following objectives:

- (a) Allowing a broad cross section of society to benefit from human rights awareness programmes;
- (b) Incorporating material for raising awareness of human rights into the programmes of political, economic and cultural institutions;
- (c) Promoting dialogue on human rights values, principles and concepts among all members of society.

53. Awareness-raising programmes may include:

- Training for specialists in different aspects of awareness-raising
- Establishment of media programmes for human rights education
- Monitoring of media programmes to determine how far the content is consistent with human rights values and principles
- Inclusion of cultural specialists in activities to raise awareness of human rights
- Expansion of the role of mosques and houses of worship in the work of disseminating a culture of human rights and in explaining rights and obligations

C. Information on non-discrimination, equality and access to legal remedies

Judicial and administrative authorities with jurisdiction in matters covered by the Covenant

54. Article 1 of Decree-Law No. 23 of 1990, as amended by Act No. 10 of 1996, concerning the organization of the judiciary, establishes two key principles:

- First, the courts have general jurisdiction in all civil, commercial, administrative, personal status and criminal cases. This rule was established to unify the Kuwaiti judicial system and thus give effect to the right of parties at law to equal treatment.

- Second, the rules on the subject matter jurisdiction of the courts are established by law. No subordinate legal instrument may regulate, or alter the rules on, the jurisdiction of the courts. According to the above-mentioned Act, the court system is made up of the Court of Cassation, appeal courts, courts of first instance and summary courts.
55. In this connection, the following observations may be made:
- Article 166 of the Constitution states that the right of legal recourse is guaranteed. Hence, any person who claims to have suffered an abuse of his or her rights in Kuwait may bring a complaint before the Kuwaiti courts and demand the restitution of his or her rights. Act No. 23 of 1990, on the organization of the judiciary, recognizes the independence of the judiciary.
 - The provisions of the Code of Criminal Procedures and Proceedings are consistent with international justice norms. The Code establishes the right of parties at law to a public hearing, legal representation and the enjoyment of various other guarantees.
 - The Covenant is applied through a mechanism established under article 70 of the Constitution.

The Amir concludes treaties by decree and transmits them immediately, together with an appropriate explanatory statement, to the National Assembly. A treaty enters into force after being signed and ratified and published in the Official Gazette. Treaties on peace, alliances, State territory, sovereign rights, citizens' public or private rights, commercial affairs, navigation, residence, and public expenditure not covered by the budget, and treaties that require amendments to be made to domestic laws are only enforceable in Kuwait if issued in a law. Under no circumstances may secret clauses be agreed upon that are at odds with the explicit clauses of the treaty being concluded.

56. Publication is the final stage of the legislative process and its purpose is to enable the executive to publicize legislation and open the way for its implementation. Laws are published in the Official Gazette, in Arabic, within two weeks of being issued and enter into force within one month of publication. This time limit may be extended or reduced by means of a special provision of law. Once it has been published in the Official Gazette and this time limit expires, the relevant law applies to all persons, regardless of whether or not they are aware of its existence. All laws of any kind must be published; with publication, all public bodies and authorities are required to implement the elements of the law that pertain to their functions.

II. Legislative, legal and administrative measures taken by Kuwait in observance of the articles under chapters I, II and III of the Covenant

Article 1

57. The State fully recognizes the inalienable right of peoples to self-determination. This right is enshrined in the Charter of the United Nations and its observance is one of the key goals that the United Nations was set up to achieve. It is on the basis of the right of self-determination that many States won their independence and that other members of the international community are required to assist and support peoples still suffering under foreign occupation in their legitimate struggle for independence.

58. In keeping with this principle, Kuwait has always taken a supportive stance on the adoption of international resolutions that recognize the right of peoples to self-determination. Kuwait has played a leading role in efforts to support peoples struggling for independence and for the right to dispose of their own wealth and economic resources. The Constitution of Kuwait states that all natural resources and income derived therefrom are the property of the State, which must safeguard them and ensure that they are used properly, having due regard to the exigencies of State security and of the national economy.

59. The Constitution provides that the national economy is founded on social justice and on cooperation between the public and private sectors. The goal is to achieve economic development, increase production, raise living standards and bring prosperity to citizens. Property, capital and labour are the fundamental components of the social structure of the State and of national wealth. They are bound up with individual rights that have a social dimension and are regulated by law. The Kuwaiti Constitution recognizes the right to own public property; no one may be prevented from disposing of his or her property except as determined by law. Property may only be expropriated in the public interest, under the conditions and procedures established by law and in exchange for fair compensation. Public property in Kuwait is inviolable and may not be confiscated. All citizens have a duty to protect public property.

Article 2

60. A number of the principles enunciated in the Universal Declaration of Human Rights and international human rights instruments such as the International Covenant on Economic, Social and Cultural Rights are echoed in the Kuwaiti Constitution. The legislature did not stop there, however; it also established safeguards designed to ensure the effective observance of these rights and to protect them from abuse. It established the Constitutional Court by Act No. 14 of 1973 to interpret the Constitution and adjudicate in disputes over the constitutionality of laws, decrees and regulations. The rulings of the Court are binding on all.

61. All citizens have the full freedom to defend themselves in court in exercise of the legally established right to defend one's rights under the evidentiary procedures provided for in law. This applies both to the human rights recognized in domestic laws and those enshrined in international instruments that acquire the force of law because the State has become a party to them. Hence, a citizen or a foreign resident can freely invoke their rights in court without any impediments.

62. Article 70 of the Kuwaiti Constitution provides: "The Amir concludes treaties by decree and transmits them to the National Assembly."

63. The article makes it clear that treaties concluded by the State are legally enforceable in Kuwait and apply to all. Hence, the Kuwaiti courts are bound to apply them. Consequently, as soon as Kuwait acceded to the International Covenant on Economic, Social and Cultural Rights and completed the constitutional procedures for ratification, the Covenant became part of Kuwaiti domestic law and binding on all State authorities and organizations.

64. The framework for the establishment of the political and legal system in Kuwait and for the enactment of fundamental human rights norms that are applicable in the State is the Kuwaiti Constitution promulgated on 11 November 1962. The Constitution is the basic law of the State and its provisions cover many different elements of the system, including the nature of the political system, the basic components of society, rights and duties, and the separation of powers. The Constitution could be thought of as providing a political and legal framework that safeguards human rights in Kuwait in general. In line with its

provisions, several laws have been enacted to protect political, civil, economic, cultural and social rights, among others. A number of other laws, notably the Criminal Code and the Code of Criminal Procedures of 1960, deal with other aspects of human affairs in Kuwait.

65. With a view to the regulation and promotion of human rights, a ministerial decree was issued in 2008 providing for the establishment of the Higher Committee for Human Rights. The Committee's functions include:

- (a) Raising awareness of human rights through the media, seminars, public talks and studies on human rights issues;
- (b) Incorporating information on fundamental human rights concepts into general and higher education curricula.

Article 3

66. Kuwait has done a great deal to promote the advancement of women, with the result that a workforce that is aware of these matters can now be found in various economic sectors. The Constitution recognizes that women have the right to work and to choose the type of work that they want to do and that they have the freedom to engage in business and professional activities. Women have opportunities to pursue education at all levels and have access to public employment on an equal footing with men. At the same time, special allowances are made in order to allow them to play their role as mothers.

67. As at 30 June 2008, the women's workforce participation rate stood at 43.37 per cent. This shows that society is aware that Kuwaiti women have an important role to play and that they need to be involved more fully in socio-economic development. The role of Kuwaiti women is not determined solely by their participation in paid work. Kuwaiti women also participate in the voluntary sector through associations that engage in cultural, social, technical and vocational activities.

68. These principles recognized by Kuwaiti society are put into practice in the treatment afforded to women. Kuwaiti women currently hold leading positions in society. The rector of Kuwait University is a woman — the first Arab woman to hold such a position — and many women have held positions as undersecretaries of State, deputy undersecretaries of State and leaders of councils, administrative departments and cooperatives. Women have access to public employment on an equal footing with men and have even held ministerial positions (the portfolios of Minister for Education, Minister for Higher Education and Minister of Health). There are also numerous women's charities. This shows that women take prominent positions in Kuwaiti society. Recently, women have taken up seats in the Kuwaiti National Assembly. Through their participation in law-making, they are making a contribution to political life in general and to the development of legislation in particular.

Article 4

69. At the outset, it should be recalled that the rights set forth in the International Covenant on Economic, Social and Cultural Rights are recognized in the Kuwaiti Constitution and reflected in the relevant laws and legislation of Kuwait.

70. It is well known that Kuwaiti law, beginning with the Constitution, provides for situations in which the country may have to adopt extraordinary and exceptional measures. On that subject, article 69 of the Constitution states: "The Amir may proclaim martial law in cases of necessity, as defined by law, and in accordance with the procedures established by law. Martial law shall be declared by decree. The decree shall be referred to the National Assembly within 15 days of issuance for a decision on whether martial law should remain

in force. If martial law is declared when the National Assembly is not in session, the decree shall be referred to the new assembly at its first sitting. Martial law shall only remain in effect if so decided by a majority of the members of the National Assembly. The matter shall in all events be referred back to the National Assembly, under the conditions set forth above, every three months.”

71. From a reading of this article and the accompanying explanatory note, it is clear that the overriding concern is to ensure that martial law is applied in strict compliance with the relevant legal norms and subject to the restrictions that apply in a State governed by the rule of law.

72. At a certain point in time martial law had to be declared. The legislation by which this was effected was Act No. 22 of 1979. In 1980, Act No. 65 of 1980, concerning general mobilization, was issued.

73. Kuwait took legal and other measures to deal with issues arising from the introduction of martial law. As a result, there were some positive aspects to the period of martial law, since the authorities were concerned to safeguard the fundamental rights and freedoms of citizens. The positive aspects of this period were the following: (a) Martial law and the curfew lasted only for a limited amount of time; (b) Homes could not be searched without a written warrant issued by a member of the Military Prosecution Service; (c) A military court was established; (d) Trials were conducted in open court; and (e) Military court judgements were not considered final judgements. As this demonstrates, the Kuwaiti legislature was committed to providing safeguards and to preventing abuses or the kind of arbitrary conduct that tends to occur in such situations.

74. Decree No. 14 of 1991, declaring martial law, was issued on 26 February 1991. Under article 1, martial law was declared in Kuwait for a period of three months. A number of orders and decisions issued in implementation of the decree reflected the concern of the State to provide additional judicial and legal safeguards for individuals brought before the military courts and convicted of collaborating with the Iraqi regime during the occupation.

75. The Military Governor-General issued Order No. 9 of 1991, establishing an office to review judgements handed down by the military courts under his authority. Article 2 stated that the office was to be staffed by appeal court justices appointed by a decision of the Minister of Justice. Article 3 defined the office’s role in reviewing military court judgements and verifying their legality. The Minister of Justice transmitted judgements, together with an advisory opinion, to the Military Governor-General, to endorse the sentence, replace it with a higher or lower penalty or suspend the sentence.

76. Other measures included the establishment of regulations stating that military court judgements were not final judgements. Following the end of martial law, judgements were transmitted to the State Security Court, which reduced the sentences handed down in some 16 cases.

Article 5

77. Kuwait does not interpret the Covenant as implying in any way that the State has the right to endanger any of the rights or freedoms embodied therein. Article 75 of the Kuwaiti Constitution provides: “No proposal on the amendment of the provisions on rights and freedoms set forth in the Kuwaiti Constitution shall be accepted, unless it establishes additional guarantees of liberty and equality.”

Article 6

78. Kuwait should like to confirm that it tries to offer employment opportunities to individuals in different areas of activity. It recognizes that people have complete freedom to choose the type of work that is best suited to their abilities.

79. It can also confirm that slavery and forced labour are prohibited in Kuwait. They are considered inhumane practices and a form of exploitation that constitutes a breach of the Constitution and domestic laws. Jobs in the governmental and private sectors are offered on attractive terms and are well paid, and living standards are higher than elsewhere in the region. Kuwait therefore attracts workers: it is a labour importing country. More than 600,000 migrant workers from as many as 138 countries work in the private sector in Kuwait.

80. In keeping with the commitment of the Kuwaiti authorities to according workers additional rights and legal guarantees in line with the relevant international norms, the Ministry of Social Development and Labour drafted a new labour bill. The bill was reviewed by a tripartite committee that represented the social partners (the Government, workers and employers) and was assisted by the International Labour Organization (ILO). On 23 December, the National Assembly endorsed the bill and transmitted it to the Cabinet for ratification by His Highness the Amir of Kuwait. The new act offers various benefits to workers.

81. Act No. 38 of 1964 makes no reference to a minimum wage. Wages are generally set by agreement between the employer and the employee. With a view to promoting good labour relations, a provision was included in the new labour bill stating that the Minister may establish a minimum wage for employees in certain occupations or industries. The wage for the governmental sector is determined by the employee's grade, qualifications and experience, subject to the rules laid down in Decree-Law No. 15 of 1979, concerning the Civil Service, as amended (Section VII: Wages). The legislature defines wage levels in simple and unambiguous terms, as they represent a fundamental right. The definition is intended to help maintain good relations between workers and employers.

82. Any worker who feels that his or her rights have been infringed in Kuwait has a constitutional and legal right to bring a case before a Kuwaiti court. This principle is articulated in article 166 of the Kuwaiti Constitution, which states: "The right of legal recourse is afforded to all. The law shall specify the procedures and conditions for the exercise of this right." Section 5, chapter IV, of the Constitution lists a series of fundamental principles relating to the protection of this right.

83. Article 42 of the Constitution states that forced labour is prohibited, unless otherwise provided for by law in a situation of national emergency and subject to payment of fair remuneration. According to article 22 of the Constitution, the law regulates the economy, due regard being had to the principles of social justice and to the maintenance of good labour relations. Act No. 15 of 1979, as amended, concerning the Civil Service, Act No. 38 of 1964, as amended, and Act No. 28 of 1969, concerning employment in the petroleum sector, were issued in connection with this article. These laws provide numerous safeguards to ensure that no one is forced into work in the governmental, private or petroleum sectors.

84. Article 62 of the new bill on work in the non-governmental sector provides that the Minister may issue a decision setting out schedules for minimum wages for an industry or a given occupation or for a group of similar industries or occupations. The bill is in the final stages of adoption by the National Assembly, having already been approved by the relevant governmental bodies and by National Assembly committees. The Cabinet issued Decision No. 823, establishing a minimum wage for guards and cleaners employed in enterprises

involved in the implementation of Government projects. Employers in those enterprises are not allowed to pay less than the minimum wage and must pay housing, transport and living costs of migrant workers and other costs incurred in connection with their employment and residence, such as residence permit fees and health insurance costs.

Article 7

85. As Kuwait offers good conditions of employment, high wages and one of the highest standards of living in the region, it attracts migrant workers. It accords migrant workers the same treatment as its own nationals without any discrimination. The law on work in the private sector and the law on work in the petroleum sector apply the same standards and norms to migrant workers as to Kuwaitis.

86. The Labour Inspectorate of the Ministry of Social Affairs and Labour investigates working conditions and carries out checks to ensure that employers comply with labour laws and regulations. The Inspectorate never fails to report employers who breach their legal and statutory obligations. The Ministry has issued a regulation on the creation of proper working conditions and on compliance with work safety standards. The Ministry of Social Affairs and Labour takes proactive measures to improve working conditions for migrant workers. It has been actively involved in capacity-building for labour inspectors and for the Labour Inspectorate in general. It intends to submit ILO Employment Policy Convention, 1964 (No. 122) and ILO Prevention of Major Industrial Accidents Convention, 1993 (No. 174) for consideration with a view to possible accession.

87. Domestic workers are in a special category, insofar as they are considered members of the family and live in the home of the employer. Because of this it is difficult, for example, for labour inspectors to enter homes in order to verify that employers are complying with the law. This does not mean that workers in this category are denied their rights. Agencies that employ domestic workers are regulated under Decree-Law No. 40 of 1992 and other legal instruments.

88. Kuwait circulated a model contract for domestic workers to all recruitment agencies. The contract is now being used and has also been forwarded to Kuwaiti missions in labour-sending countries. If necessary, the missions can make sure that the domestic worker signs the contract before coming to Kuwait. In that way, the person is apprised of his or her contractual rights and obligations, such as the right to a salary; the right to suitable housing, treatment and food; the right to rest breaks; and the right to decent and humane treatment. The General Department for Civil Aviation was instructed to distribute the contract to all carriers and to give instructions to check that domestic workers have their contracts before allowing them to board aircraft. The key elements of the new contract are list below:

- (a) A minimum wage is set;
- (b) The employee is entitled to one day off per week;
- (c) The employee is entitled to three rest breaks a day, in addition to time for sleep;
- (d) The sponsor pays for a round trip ticket for the employee to cover the period of the contract;
- (e) The employee is entitled to receive an end-of-service indemnity, corresponding to one month's pay for each year worked.

89. A section has been set up at the Domestic Labour Department of the Ministry of Foreign Affairs to process complaints from domestic workers.

90. Human trafficking is a global phenomenon and any act involving any form of human trafficking is classified as a criminal offence. Numerous administrative and regulatory measures have been put in place to combat and address all kinds of infringements of workers' human rights. These measures include in particular the following:

- (a) The establishment of a refuge for migrant workers which provides a full range of social, health and legal services;
- (b) The creation of a hotline for making complaints about infringements of workers' human rights;
- (c) The formation of field teams to investigate possible infringements of workers' rights.

91. The State has signed and ratified several treaties on the protection of human rights and freedoms, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child. Further to its international obligations under these instruments, the State has adopted legislative and executive measures to combat human trafficking. These measures are outlined here below.

Legislative measures

92. As explained in this section, the Kuwaiti legislature has enacted numerous laws that criminalize various forms of human trafficking and establish criminal and administrative sanctions designed to serve as a deterrent to traffickers.

93. Article 185 of the Criminal Code (Act No. 16 of 1960) states that it is an offence to bring a person into or out of Kuwait for the purpose of selling that person as a slave, or to buy, offer for sale or make a gift of a person as a slave. This article prescribes a penalty for this offence — a term of up to 5 years' imprisonment — that is intended to serve as a deterrent.

94. Articles 200–204 of the Criminal Code classify numerous acts relating to indecency and prostitution as criminal offences. These acts include incitement to engage in debauchery or prostitution or aiding and abetting. The penalty for these offences is a term of up to 1 year's imprisonment and/or a fine of up to 75 Kuwaiti dinars (KD). The penalty is doubled if the victim was under 18 years of age (art. 200).

95. A penalty of up to 5 years' imprisonment is prescribed for cases where the perpetrator used threats or deception to force the victim to engage in debauchery or prostitution. It is increased to a maximum of 7 years' imprisonment and/or a fine of up to KD 525 if the victim was under the age of 13 years (art. 201). Penalties will be imposed on any person who lives wholly or in part off the earnings of a man or woman who engages in debauchery or prostitution or who uses his or her position of influence or control or methods of coercion to compel a person to engage in such practices, whether or not the culprit takes money from the person without offering anything in exchange or takes it in exchange for providing him or her with protection (art. 202). The Code prescribes harsh penalties for establishing or running premises used for engagement in debauchery or prostitution (art. 203). The Code also prescribes penalties of up to 3 years' imprisonment and/or a fine of up to KD 3,000 for openly soliciting for prostitution or debauchery in a public place (art. 204).

96. Article 21 of Act No. 3 of 1983, concerning minors, prescribes a term of up to 3 months' imprisonment for exposing a minor to the risk of delinquency by preparing him or her to engage in an act of prostitution or debauchery or in ways of making a living that do not meet standards of decency. This penalty is without prejudice to any higher penalty that may be prescribed under the Criminal Code.

97. A term of up to 3 years' imprisonment will be imposed if the perpetrator coerced or threatened the minor, is responsible for the minor's education or welfare or exercises authority over the minor.

98. Domestic workers, drivers and gardeners employed in private homes are afforded protection; it is an offence to exploit them in any way or to deny them their rights. Decree-Law No. 40 of 1992, was enacted to regulate agencies that employ domestic workers and others for private employers and ensure that they do not exploit such workers but rather safeguard their rights. Any person who takes any sum of money from a worker in exchange for providing him or her with a job will be liable to punishment under the law. This rule was established by the legislature to protect the humanity and safeguard the dignity of domestic workers and to avoid giving the impression that these workers are nothing but goods to be bought and sold.

Executive measures

99. In addition to legislation, the State has introduced the following executive measures:

- The establishment of the National Assembly's Human Rights Committee is evidence of the State's growing interest in defending human rights and freedoms and in providing legal guarantees to support them. The Committee reviews existing laws and regulations and amends them in the light of changes in international human rights norms, having due regard to the provisions of human rights treaties. It develops plans and mechanisms to give effect to these rights and receives reports and complaints of all kinds from persons who claim to have suffered human rights abuses. It disseminates information on human rights norms, regulations and principles.

100. The Committee also helps to promote human rights, to combat human rights abuses and to protect workers from potential exploitation or the denial of their rights. The Committee does this by working with governmental and non-governmental bodies and all State organizations to restore any rights that have been withheld. Legal action is taken against those who abuse workers' rights.

101. The competent authorities have taken part in numerous conferences and special forums on human trafficking. For example, the Ministry of the Interior has sent several delegations to attend events organized by the International Organization for Migration (IOM) among others. It sent delegations to: the Vienna Forum to Fight Human Trafficking, which was held from 13 to 15 February 2008; the Ninth Regional Meeting of Arab Experts in the Middle East and North Africa Region on Rights-Based Assistance to Victims of Trafficking, held in Cairo in December 2008; and the closing meeting held in Austria in February 2009 on the adoption of the Guidelines for the Collection of Data on Trafficking in Human Beings.

102. On 1 May 2008, the Kuwait Institute for Judicial and Legal Studies, in conjunction with the Ministry of Justice, held a training course for the authorities responsible for combating human trafficking in conformity with international human rights treaties and the laws of Kuwait. A talk was given by Dr. Mohamed Mattar, Professor of International Law at Johns Hopkins University in Washington and Executive Director of the Project on Protection from Human Trafficking. The course was attended by judges, deputy public prosecutors and legal researchers from the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of the Interior and the Ministry of Social Affairs and Labour and by experts and other interested persons.

103. The following topics were presented and discussed:

- (a) The experience of Kuwait in fighting human trafficking through legislation to safeguard human dignity and protect persons from being employed in work that offends against their dignity;
- (b) The steps taken by the State to accede to various international treaties and protocols on combating human trafficking;
- (c) A presentation on international efforts to combat human trafficking;
- (d) Discussion of a Kuwaiti bill on combating human trafficking and smuggling of migrants;
- (e) The importance of distinguishing between the victims and the perpetrators of human trafficking offences.

104. The Ministry of Awqaf (Endowments) and Islamic Affairs set up a project to raise public awareness of the human rights of Kuwaitis and foreign residents. The National Project to Raise Awareness of Domestic Workers is the first experiment of its kind in Kuwait and its main achievement has been to use a person from the early days of Islam (Ba'irah) as a model for how such workers should be treated. Under this project, the Ministry seeks to address the root causes of offences in this domain. It runs an educational programme designed to make nationals and foreign residents aware of the noble values of Islam and of how to deal with domestic workers.

Security measures to protect the rights of workers

105. The Ministry of the Interior summons employers who exploit workers for questioning. In conjunction with the Ministry of Commerce, it has referred a number of cases for investigation by the relevant authorities and, as provided for by law it has imposed administrative sanctions such as the closure of companies or the levying of fines.

106. The Ministry of the Interior of Kuwait has done a great deal to combat all forms of exploitation of workers and does not hesitate to take legal action when exploitation occurs. It has raided premises being used as brothels, arrested those involved and prosecuted them. Under article 4 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000, which Kuwait ratified by Act No. 5 of 2006, except as otherwise stated, the Protocol only applies to trafficking offences committed by organized criminal groups.

107. This means that the agent in such cases must be a member of an organized criminal group that engages in human trafficking. Individuals acting on their own are not considered to be human traffickers. The agent is not simply a natural person but must be part of an organized enterprise that is set up to carry out human trafficking and that has a structure somewhat akin to that of a multinational company.

108. Cases of sexual and physical abuse of female migrant domestic workers cannot be classified as human trafficking; they concern acts committed by individuals that do not fit with the definition provided in article 4 of the Protocol.

109. These are acts committed by individuals and Kuwait and its various agencies will spare no effort to deal with them and to prosecute and punish the perpetrators. In this connection, reference may be made to the deterrent sentences handed down recently by the Kuwaiti courts to defendants found guilty of sexually or physically abusing female migrant domestic workers.

Status of domestic workers and domestic servants

110. Decree-Law No. 40/92 and Ministerial Decree No. 617/92 were issued on the recruitment of workers from abroad and on the rules and procedures for obtaining permits to recruit domestic servants and employees in similar categories. The General Department for Migration set up a department for domestic workers to monitor agencies that recruit domestic workers. The tasks of the department include:

- (a) Ensuring compliance with the provisions and regulations set out in the legislation on agencies that recruit domestic workers and employees in related categories;
- (b) Establishing daily working hours and ensuring the right of domestic workers to one or more rest breaks each day;
- (c) Ensuring the right of domestic workers to one month's paid annual leave and to enjoy decent living conditions that meet their basic requirements (housing, food, water and free medical care).

112. The action taken to combat the exploitation of domestic workers in prostitution is described below:

(a) The Constitution and related laws recognize all domestic workers' rights without any discrimination or distinction on any grounds whatsoever. Kuwaiti law contains numerous provisions prescribing penalties for engagement in any form of human trafficking. These provisions include, for example: article 24 bis of Amiral Decree No. 17/59, concerning the Alien Residence Act. The article prescribes a term of up to 3 years' imprisonment and/or a fine of up to KD 3,000 for assisting a non-national to obtain a Kuwaiti tourist visa or a residence permit in exchange for payment or gain or the promise thereof.

(b) Thus it was logical for Kuwait to ratify, in keeping with the principles enshrined in Kuwaiti law, the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air.

Article 8

113. Article 43 of the Kuwaiti Constitution recognizes the freedom of persons to establish associations and trade unions by peaceful means and according to the conditions defined by law. In implementation of this constitutional principle, Act No. 38 of 1964, as amended, was issued to regulate private sector work. The Act contains a special section with detailed provisions on workers' and employers' organizations. Article 69 provides that the right to form employers' federations and trade unions is guaranteed. Federations and unions established in conformity with the Act have legal personality, and the same provisions apply to workers in the governmental sector.

114. Thirty-eight trade unions and trade union federations have been established in Kuwait. They include a general federation of workers which was founded in Kuwait in 1986 in accordance with article 80 of the Labour Code.

115. The Kuwaiti legislature set out formal rules on the establishment of trade unions in article 71 of the Kuwaiti Labour Code, which states that a trade union must have at least 100 members and that there cannot be more than one trade union in the same enterprise or occupation. However, article 74 states that a trade union will only be recognized if it has at least 15 members who are Kuwaiti nationals. This is a very small number, considering that, according to article 71, a trade union must have at least 100 members. Under article 84 of

the Labour Code, trade unions and trade union federations have the right to join any Arab or international federation that they deem it to be in their interests to join.

116. There are no legal restrictions on the exercise of the right to strike in order to secure labour demands. The laws only forbid acts that jeopardize national security, such as rioting and sabotage. Kuwait is like any other country: it enacts legislation to protect national security but does not deny workers the right to strike per se.

117. The fact that Kuwait does not have any strike legislation does not mean that strikes are not allowed. The legal rule that applies is that a thing is allowed if there is no law forbidding it. The fact that the legislature has not enacted strike legislation means that strikes are allowed in Kuwait, subject to the maintenance of public security and public peace and the protection of public health.

118. In many instances workers may resort to strike action in order to bring pressure to bear on employers to meet their demands and to alter working conditions. This leads to conflict between the two sides. To address the problem of the negative impact of strikes and disputes on labour relations and on the national economy, the legislature adopted Act No. 38 of 1964, on private sector employment. Section XIV of the Act provides for the establishment of mediation and arbitration mechanisms to resolve labour disputes. However, it is not illegal to strike. The State would like to cite some examples of strikes that have been held without the authorities intervening to stop them or quash them. There was no violence in any of these cases.

- Workers went on strike in 1975 calling for higher pay.
- Production workers and firemen employed by the Kuwait Petroleum Corporation went on strike in 1980 and 1981.
- There was another strike at the Kuwait Petroleum Corporation in 1994. The issue was a lack of opportunities for career progression.
- Workers at the national oil company went on strike in 1997.

Article 9

119. Kuwait is committed to ensuring that all citizens and foreign residents have access to social services provided by the State, consistent with the principles on which Kuwaiti society is built, notably the principle of social solidarity.

120. According to article 11 of the Kuwaiti Constitution, the State has a duty to assist citizens in old age and in the event of illness or inability to work. It must provide them with social security, social assistance and health care.

121. The State affords men and women equal economic, social and cultural rights without any discrimination. If it does discriminate, it does so in favour of women. The laws of Kuwait recognize the importance of social solidarity as an overarching concept and establish that all individuals, whether Kuwaitis or foreign residents, are entitled to have access to social services provided by the State.

Article 10

122. The Ministry of Social Affairs and Labour of Kuwait takes every care to provide for the welfare of children of unknown parentage. Under Act No. 82 of 1977, concerning shared family custody, families can care for such children under the supervision of the State, represented in this case by the Ministry. The idea is to have these children cared for

and raised in a suitable environment in which their full rights are protected and respected. The Act deals with all aspects of the protection of children placed with foster families. The State participates in providing care and a proper education to such children. Welfare homes overseen by the Ministry of Social Affairs and Labour can cancel a foster arrangement and have a child brought back into care, if the family does not comply with the conditions on care stipulated in the Act.

Article 11

123. Pursuant to Act No. 47 of 1993, the State discharges its responsibilities for providing citizens with housing. The Act provided for the establishment of the Public Institute for Housing Welfare, which was assigned its own budget. Through this mechanism, the State can offer citizens a measure of stability, peace of mind and a guaranteed minimum standard of living. The Institute grants housing loans of up to KD 70,000 to citizens wishing to build their own homes on plots that they have chosen or that the State has assigned to them based on its list of priority cases. The Savings and Loans Bank also dispenses and administers loans.

124. Kuwait supplies basic goods and other essentials to citizens at prices that are affordable for all and this with the aim of helping beneficiaries to cope with rising living costs. To this end, the Ministry of Commerce maintains subsidies on certain goods and foodstuffs.

125. The State is determined to do its part to contribute to the economic development of developing and impoverished countries and to end hunger and poverty there. It has made several contributions in this connection, as detailed below.

Decent Human Life Fund

126. On 29 April 2008, Kuwait hosted the Fourth International Islamic Economic Forum under the patronage of His Highness the Amir of the country, Sheikh Ahmad Sabah al-Jabir al-Sabah. In his opening address, the Amir spoke about a fundamental problem facing the world: the problem of rising food prices. He suggested that a fund, to be called the Decent Human Life Fund, should be set up in Islamic States with the primary aim of providing food to the inhabitants of impoverished countries. He announced the State's intention to allocate US\$ 100 million to the fund. He also declared his support for the efforts of the Food and Agriculture Organization (FAO) to resolve the problem of food shortages.

Kuwait Fund for Arab Economic Development

127. The Kuwait Fund for Arab Economic Development was established on 31 December 1961 to provide and manage the delivery of financial and technical assistance to developing countries. At the beginning, the work of the Fund was confined to Arab States, as provided for under its terms of reference. However, in July 1974, the Fund extended its activities to include all developing countries worldwide. It increased its capital holdings from KD 200 million to KD 1,000 million and in March 1981 doubled that figure to KD 2,000 million. The Fund extended its activities to include participation in the capital and resources of development institutions and in capital holdings of a number of corporate bodies.

Arab Fund for Socioeconomic Development

128. The Arab Fund for Socioeconomic Development is an independent Arab financial entity which has its headquarters in Kuwait. Its members include the countries that are members of the League of Arab States and its object, according to the treaty by which it was established, is to help fund socio-economic development projects in Arab States.

129. In 1982, the State established Zakat House, one of the functions of which is to disburse the funds that it receives from alms taxes and charitable donations provided in accordance with sharia rules.

130. In October 1990, after Kuwait had been liberated from the tyranny of the Iraqi occupation, the late Amir of Kuwait, Sheikh Jabir al-Ahmad Al-Jabir al-Sabah, announced that Kuwait would renounce its rights to interest on credit owed by debtor countries and would look into forgiving the bulk of debts owed by the poorest countries.

Article 12

131. Kuwait is at the cutting edge when it comes to health care, particularly health care provision for women and children. The United Nations Children's Fund (UNICEF) has recognized the success of Kuwait in reducing infant and child mortality rates and praised it for the excellent standard of health care that it delivers.

132. The Constitution of Kuwait recognizes the vital importance of public health. Article 15 provides that the State must protect public health and supply the means to prevent and treat infectious diseases. The Ministry of Health meets these obligations on behalf of the Government. It discharges its responsibility for general oversight of all public health institutions and health-service personnel with a view to the delivery of health services of the highest quality.

133. Health centres for children and mothers have been set up across the country to deliver programmes designed to protect children from infections that endanger their lives and development. The centres do a great deal for communities, running awareness campaigns to inform all members of the public about diseases that pose a threat to public health.

134. The State has involved civil associations such as the Kuwaiti Medical Association and the Patients' Assistance Fund in the elaboration of State policy on the dissemination of information about good health practices and the dangers of certain diseases. The Ministry of Health distributes free brochures and health information materials on protecting the public from disease to health centres and schools.

Article 13

135. Economic, cultural and social rights occupy an important place in the human rights system in general. They encompass more than one aspect of human life and the essential aspiration of the individual to bridge the divide that separates members of society from one another. They are bound up with the objective of securing a decent life, work, opportunities for social mobility and access to culture, in other words with the rights to: work; social security; a decent standard of living; development; access to goods, leisure and opportunities for social advancement; and access to employment and to all forms of culture such as enjoyment of the arts and literature. They also pertain to the freedom of scientific research, freedom of thought, and a number of other rights.

136. These rights are not just about individuals in the sense explained above; they also have an added social dimension, in that they have to do with the person as a member of a group, a person who interacts with and influences and is influenced by the group. In this context, economic, social and cultural rights serve to strengthen social cohesion in the nation and to support adherence to the values of inclusiveness, loyalty and respect for others. Thus, the social dimension remains the most important element of a person's life, whatever the person's circumstances may be.

137. The State has made great progress towards realizing this vision of economic, social and cultural rights. It enacted the Constitution, which establishes a range of rights at all levels, together with new legislation to keep pace with changes in the domestic and international arenas. Article 13 of the Kuwaiti Constitution establishes that the State has a duty to care for the rising generation and to protect it from exploitation and from moral, physical and spiritual neglect.

138. Article 40 of the Constitution states that Kuwaitis are entitled to an education which must be provided by the State in accordance with the law and having due regard for the maintenance of public order and public decency. Education is compulsory and free of charge in the initial stages.

139. Education is a prism through which these rights and how they are realized in the national context can be viewed, since:

(a) The right to receive an education and to learn is an inalienable human right and all other human rights are intimately bound up with it;

(b) The learning process or, more specifically, the learning environment, provides the most important and most appropriate setting for the delivery of human rights education in all its aspects;

(c) The end result of education should be to produce leaders. Hence, the goal is to train the generation that will benefit from these rights and that will ensure that their communities benefit from them too.

140. The provisions of the Constitution of Kuwait and of the country's education laws are perfectly consistent with article 13 of the International Covenant on Economic, Social and Cultural Rights, which suggests, without saying so in exactly the same words, that:

(a) Primary education should be compulsory and free of charge for all;

(b) Secondary education in its different forms should be provided free of charge;

(c) Higher education should be made accessible to all on the basis of merit;

(d) Better conditions should be provided for employees in the education sector;

(e) Parents should have the freedom to choose schools other than State schools for the education of their children.

141. These ideas about educational rights and the role of education are reflected in article 13, paragraph 1, of the Covenant, which states that education should be directed to the full development of the human personality. This phrase encapsulates the overarching goal of education in Kuwait, namely that of providing appropriate opportunities for people to achieve full spiritual, moral, intellectual and physical development to the extent that their capacities allow and in keeping with the precepts of Islam, the Arab heritage, and contemporary cultural norms. In this process, a balance must be struck between self-actualization and the goal of preparing individuals to play a constructive role in the development of Kuwaiti society in particular, and Arab society and global society in general.

142. Based on this overarching goal, educational objectives have been grouped as follows:

- Help individuals to acquire knowledge that they can use in all spheres relevant to their lives as individuals in their own right and as members of society
- Help individuals to acquire appropriate and useful skills

- Help individuals to use scientific thinking skills and to develop their creative faculties
- Help individuals to develop appropriate skills and habits
- Help individuals to develop appropriate attitudes and learn the right values

143. All the laws on education and its goals are designed to meet human rights requirements as reflected in international human rights instruments, including article 13 of the Covenant. As for economic, social and cultural rights, Decree-Law No. 4 of 1987, concerning general education, reproduces the provisions of previous decrees and of laws such as the 1965 Education Act. The Decree-Law states:

(a) Education is a right afforded by the State in order to protect the rising generation from exploitation and from moral, physical and spiritual neglect, to encourage scientific research, and to support social progress;

(b) Education is free of charge at all stages from kindergarten to university. It is compulsory in the primary and intermediate stages i.e. for a period of nine years. Plans to extend compulsory education to include the kindergarten and secondary stages are being developed. Beginning in the 2009/10 academic year, the Ministry will introduce the teaching of Arabic and English in kindergartens.

144. Kuwait has made significant progress on student enrolment ratios. According to data for 2008, the enrolment ratio for the kindergarten stage was 89.8 per cent, as against 99.3 per cent for primary education (it should be 100 per cent, but some students opted for private education). This figure is based on the total number of children attending schools. In the intermediate stage, the gross enrolment ratio is 100 per cent and the net enrolment ratio is 84.7 per cent, and in secondary education the enrolment ratio is 92.4 per cent.

145. Kuwait has diversified the type of instruction provided in different streams in secondary education. The trend towards diversification began in the middle of the twentieth century. The first steps were taken in 1956. The first college of industrial education was established in 1962, followed by the establishment of a commercial college in 1963 and the introduction of a system of vocational education for girls. The system remained in operation until 1975, when it was agreed to shelve it because it was not fit for purpose. In 1978, the Ministry of Education decided to pilot a syllabus designed by educational experts to prepare learners for life by offering them the chance to study technical and vocational subjects.

146. To keep pace with wider changes and to meet the development needs of learners, the Ministry launched a study on the possible introduction of two different streams in secondary education: an academic track and a technical track. The academic stream was launched in 2006 and the plans for introducing technical education are moving forward.

147. Kuwait University opened its doors in 1966. Its colleges (law; arts; sciences; engineering and petroleum; ancillary medicine; education; sharia; administrative sciences; social sciences; women's college; medical sciences centre; medicine; higher studies) had the capacity to accommodate a very large number of students. The State then authorized the establishment of private universities, subject to the fulfilment of a given set of conditions. Some years later, the General Authority for Applied Education was established with colleges offering: basic education; technology studies; commercial studies; health sciences and nursing studies. Special institutes have syllabuses on subjects such as communications; aviation; training on electricity and water systems; industrial training; vocational training; special courses; nursing; construction training; secretarial and office work skills; tourism; cosmetics and fashion. The idea is to give everyone access to higher education.

148. The State recognizes the special role of teachers. It offers teachers opportunities to take academic and professional training courses and takes steps to improve their salaries. Teachers in Kuwait are trained while they are students and can then follow professional development and training courses while working. Teachers also have a special remuneration package that reflects their level of responsibility and performance. Annual awards are given to outstanding teachers and serious efforts are being made to classify teaching as a difficult profession that should be well paid.

149. The Government is convinced that parents are entitled to have their children educated in a school of their choosing, to the extent that the laws allow. There is a tendency among some parents to choose private schools for their children, which they are free to do. The result is that 26 per cent of Kuwaiti children enrol in private education.

150. The State has taken steps to develop education, in line with the requirements of economic, social and cultural rights, and to prepare learners for life. A scientific and cultural reference point is needed to enable people to exercise their economic, educational and cultural rights and choices and to benefit from social mobility. Thus, all the development goals and objectives of the Government's programme of action are based on the following policies.

Education, training and inclusion policy

- Improve the calibre of graduates in all stages and educational streams through the development of teaching processes
- Develop teaching programmes and curricula and methods for assessing and training teachers
- Evaluate educational activities at all levels
- Develop education technologies
- Introduce new areas of specialization in vocational and academic education
- Focus attention in university education on the link between study and real life, and develop the technological content of academic programmes
- Raise standards in applied education
- Integrate scientific and technological research with academic study
- Pursue cooperation with the private sector in educational projects

Scientific research policies

- Devote more attention to scientific research
- Strengthen ties between scientific research institutes and the production and services sectors
- Support scientific research institutions
- Strengthen channels for cooperation on environmental issues between scientific research institutes and educational institutions
- Promote science and scientific applications as part of the social culture

151. The Ministry of Education launched a number of educational projects from 2008/09 to 2011/12 in order to support education and meet human rights goals. These projects involve the following activities:

- Identifying the needs for educational services in different populated areas

- Involving the private sector in the education process
- Developing curricula
- Meeting standards of excellence in education
- Promoting scientific excellence
- Applying the national strategy to use information technology in general education and other types of education
- Implementing projects to develop school equipment for general and other types of education
- Developing education and school boards
- Applying administrative quality standards
- Promoting the values of citizenship in relation to democracy, freedom, the rule of law and a culture of tolerance, mutual acceptance and human rights with a view to the training of a generation that is familiar with the law and with democratic values and that is willing to accept others and to respect diversity and human rights

152. The Ministry of Education has developed its curricula, which play an important role in delivering human rights education and in promoting human rights. Its five-year plan for 2007/08–2011/12 addresses many needs that relate specifically to human rights, including the following:

- The creation of modern syllabuses and curricula that deal with life skills, human rights, and the Constitution and that include other optional subjects
- The inclusion of instruction about the Islamic faith in the educational objectives of all curricula and in educational content and activities
- The preservation of Kuwaiti cultural identity and fundamental rights
- The inclusion in all curricula of material on values, specifically in connection with dialogue, human rights, respect for the opinions of others, democratic principles, respect for freedoms and the rule of law, and communication with others
- The inclusion in all curricula of material that promotes civic values and the maintenance of national unity and shows how the two are linked to the balance between rights and duties; teaches the importance of moderation and of the rejection of extremism and violence; and explains how to mediate different points of view
- The need to grant students greater freedom by increasing the range of subjects that they can choose and the number of alternatives from which they can pick

Article 14

153. Under this article, States parties are required to provide compulsory education free of charge at the primary stage. Information was provided above on the steps taken by the State to provide free education, particularly at the primary stage. Education is free of charge at all stages from kindergarten to university. It is compulsory from the primary stage to the intermediate stage – a period of nine years. Plans to extend compulsory education to include the kindergarten and secondary school stages are being developed. The Ministry will introduce the teaching of Arabic and English in kindergartens in 2009/10.

Article 15

154. Kuwait takes a very close interest in the sciences, literature and the arts. It has entrusted the National Council for Culture, the Arts and Letters with responsibility for overseeing cultural activities in conjunction with the Ministry of Information. It established the Kuwait Institute for Scientific Research, the Kuwait Foundation for Scientific Progress, the Kuwaiti Science Forum and a large number of institutes and museums that seek to disseminate and preserve culture. The Constitution of Kuwait does not overlook the sciences, literature and the arts, and article 14 of the Constitution provides for the promotion of scientific research.

155. The National Council for Culture, the Arts and Letters was established by Amiral decree on 17 July 1973. It is one of the main institutions responsible for planning, overseeing and carrying out all kinds of cultural activities. It also forges links with Arab and foreign cultural institutions.

156. The Council has a number of departments, including a theatre department, which oversees and provides guidance on theatre productions, the Islamic Antiquities Institute, the Abdul Aziz Hussein Cultural Center and *Bayt al-Sadu*.

Goals of the Council

157. The goals of the Council are defined in article 2 of the decree by which it was established as follows:

- Promoting culture, the arts and letters
- Cultivating, developing and enriching intellectual output
- Creating a favourable environment for artistic and literary production
- Selecting media for the dissemination of culture
- Preserving the cultural heritage and conducting studies on the topic
- Promoting, disseminating and providing education on culture and fine arts
- Forging links with Arab and foreign cultural institutions
- Developing a cultural plan based on objective studies of the country's requirements

Tasks of the Council

158. The tasks of the Council are defined in article 3 of the decree by which it was established as follows:

- Surveying the cultural scene and collecting data on the work done by different institutions
- Conducting comprehensive periodic studies on work already done and work that could be done to develop and enrich cultural output and support literary and artistic development, and establishing projects and plans to that end
- Producing written documents, dictionaries and compendia and developing archives; helping to disseminate works that are the fruit of creative intellectual endeavour, including translated works; promoting cultural exchanges; and participating in cultural and arts fairs, conferences, exhibitions and seminars
- Creating awards for the best cultural, artistic and literary works produced locally

Council committees

159. The Council carries out its duties with the assistance of advisory committees that include Kuwaiti intellectuals and artists who are involved in diverse cultural activities and mostly do not work for the Council. Various temporary committees also support the Council in its work.

Kuwait Foundation for the Advancement of Sciences

160. The Kuwait Foundation for the Advancement of Sciences plays a key role by distributing several journals and periodicals on sciences and general knowledge subjects. The Foundation has created a scientific progress award to support the sciences, literature and other forms of creative activity. It has its own budget.

161. Several other organizations operate in this area, including Kuwait University and the public and private institutes and entities that raise cultural and scientific awareness in partnership with the Foundation. Several community-service and continuous-learning centres have been set up at Kuwait University and the Public Authority for Applied Education and Training, and there are also centres run by the Ministry of Awqaf (Endowments) and Islamic Affairs.

162. Ministries and cultural foundations also work together on these issues, particularly the Ministry of Information and the National Council for Culture, the Arts and Letters. In addition to the Writers' Guild, there are cultural associations and institutions such as the Kuwait National Commission for UNESCO, the Kuwait Society for the Advancement of Arab Children, the Kuwait Foundation for the Advancement of Sciences, the Kuwait Institute for Scientific Research, the Centre for Research and Studies on Kuwait and various other Kuwait-based cultural and arts organizations.

163. The State is committed to strengthening its ties with other States in this domain through the bilateral treaties and international treaties on the following subjects:

(a) Culture:

- Dissemination of information about all forms of culture
- Cooperation on aspects of culture including: literature, the arts, cinema, architecture, museums, libraries, archives, and so on
- Participation in cultural and arts fairs (music, theatre and the plastic arts)
- Participation in talks and seminars on cultural issues
- Promotion of children's culture
- Promotion of archaeological projects and the conservation of antiquities
- Organization of culture weeks

(b) Education:

- Participation in training courses, conferences, science symposia and education seminars
- Exchanges of experiences and information about all aspects of public, private and technical education
- Work with national committees on education and cultural sciences
- Organization of student exchanges



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- (c) Higher education and scientific research:
 - Study grant exchanges
 - Exchanges of academic and scientific publications
 - Measures to draw on the knowledge of experts, scientists and visiting professors
 - (d) Science, technology and science foundations:
 - Participation in science conferences, seminars, course and exhibitions
 - Exchanges of information, publications and scientific and technical materials and promotion of joint research programmes
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